

UNITED STATES DISTRICT COURT.

DISTRICT OF MASSACHUSETTS

TRANS-SPEC TRUCK SERVICE, INC., )  
TRUCK SERVICE, )

Plaintiff, )

vs. )

CATERPILLAR, INC., )

Defendant. )

**CERTIFIED ORIGINAL  
LEGALINK BOSTON**

) CIVIL ACTION  
) 04-11836-RCL  
)

THE DEPOSITION of CLARISSA COLMER, called  
for examination by the plaintiff in the above  
entitled cause pursuant to the provisions of  
the United States District Court and taken  
before me, Grace Cafaro, CSR-RPR-CP, License  
#084-000702, a Notary Public in and for the  
County of Peoria and State of Illinois, at the  
Radisson Hotel, 117 North Western Avenue, in  
the City of Peoria, County of Peoria and State  
of Illinois, on the 22nd day of September, A.D.  
2005, commencing at 2:00 p.m.

1 group in the engine division only.

2 Q. Okay. And you replaced Mr. Warner?

3 A. Correct.

4 Q. When did Caterpillar decide to stop reimbursing  
5 for flywheel house and flywheel house bolt  
6 repairs on Trans-Spec trucks?

7 A. From my discussions with the people I named  
8 earlier, I'm of the understanding that it was  
9 mid 2003.

10 Q. What is Caterpillar Extended Service Coverage  
11 Plus?

12 A. Extended Service Coverage Plus is a coverage  
13 program that is a purchased program that covers  
14 specific components for defects in Caterpillar  
15 material and workmanship for a specific amount  
16 of time as noted on the contract.

17 Q. What entity offered Trans-Spec the extended  
18 service coverage?

19 A. Who offered them this extended service  
20 coverage?

21 Q. Yes.

22 A. I'm not sure if it was the Caterpillar -- I  
23 don't -- I don't know exactly who offered it to

1 A. No, I did not.

2 Q. You didn't do any research into that area to  
3 prepare for this 30(b)(6) deposition, did you?

4 MR. GRUNERT: No, because it was beyond  
5 the scope of the notice.

6 BY MR. SAMITO:

7 Q. Do you know why Caterpillar decided to stop  
8 reimbursing for flywheel housing and flywheel  
9 housing bolts failures on Trans-Spec's C-12s?

10 A. In my discussion with Rob Smith and Brad  
11 Bowdoin, I understand that they made the  
12 decision that these repairs should no longer be  
13 covered.

14 Q. Why?

15 A. Because they felt it was not a failure in CAT  
16 material or workmanship, it was not a defect of  
17 the Caterpillar material or workmanship.

18 Q. Who did they consult with when they came to  
19 that decision?

20 A. I understand that that information was  
21 communicated back to the CAT dealer.

22 Q. I'm asking who did they communicate with when  
23 they made the decision? Did they speak with

EXAMINATION BY MR. GRUNERT:

Q. Ms. Colmer, Mr. Samito asked you the reason why the people who made the decision that Trans-Spec flywheel and flywheel housing failures should no longer be paid under warranty, what they took into account in making that decision, and you testified I think to the effect that they took into account not only information they had gotten from the dealer about application, but also the general performance of C-12 engines or words to that effect.

Can you explain what you mean by that part of the answer?

A. I understood that when they looked at the failure history on Trans-Spec's units they looked at the history of flywheels in general on all C-12s and that there was not a significant failure rate in relationship to the failure rate that Trans-Spec was seeing that was occurring on Trans-Spec units, that the failure on Trans-Spec's units was significantly

1 greater than the general population of C-12s.

2 MR. GRUNERT: That's all I have.

3 MR. SAMITO: I have a few more. Possibly  
4 one, we'll see.

5

6 FURTHER EXAMINATION BY MR SAMITO:

7 Q. Did Caterpillar routinely stop reimbursing  
8 under warranty if it saw a repair that was out  
9 of the ordinary?

10 MR. GRUNERT: Object to the form.

11 A. Caterpillar's decisions to discontinue paying  
12 claims are based upon the fact on whether or  
13 not they deem it as a defect in material or  
14 workmanship.

15 Q. Well, one more I guess. How did the fact that  
16 flywheel housings usually don't break or fail,  
17 how did that play into this decision to stop  
18 reimbursing for Trans-Spec?

19 A. One of the areas that was heavily considered  
20 was the significant failure rate of the -- was  
21 the significant failures of the flywheel  
22 housings on these units, repetitive failures  
23 that did not show up in the general population.

1 Q. Did the people who make the decision consider  
2 that other companies owning C-12 engines had  
3 also had flywheel housing failures and flywheel  
4 housing bolt failures on them?

5 A. I believe that they looked at the claim history  
6 on the C-12 population when making that  
7 decision.

8 Q. And is it determinative if a customer of  
9 Caterpillar submits a claim for a relatively  
10 rare failure, is that determinative on whether  
11 or not Caterpillar's going to reimburse?

12 A. The decision to reimburse is based upon whether  
13 or not the failure is the result of a defect in  
14 CAT material or workmanship.

15 Q. So the fact of the rate of incidence of the  
16 failure really doesn't matter, does it?

17 MR. GRUNERT: Object to the form; contrary  
18 to what she testified to.

19 MR. SAMITO: I'm trying to ask how it  
20 matters but I'm not getting an answer to that  
21 question.

22 MR. GRUNERT: Can you answer that  
23 question? I object to the form of it.

1 A. I understand it was due to the repetitive  
2 nature of the failures and the additional  
3 information that they had acquired on these  
4 units that allowed -- that led them to make  
5 that decision.

6 MR. SAMITO: I have nothing more.

7 MR. GRUNERT: Thank you, that's all I  
8 have.

9  
10 FURTHER DEPONENT SAYETH NOT  
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